A first approach to the European Model of Restorative Justice

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New directions in research on well being:
psychological process in everyday contexts
Prof. Irene Petruccelli
TEDx
WestVancouverED

x = independently organized TED event

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Restorative justice may be considered a model of justice that:
involve the victim, the offender and the whole community looking for solutions to the effects of the generated conflict, in order to encourage:

- the restoration of the damage
- the reconciliation of the part
- the reinforcement of the collective sense of security

In contrast with «traditional» criminal justice, in which, pragmatically, main questions are «Who deserve to be punished?» and «Which sentence?», restorative justice has a different paradigm «What may be done to restore the damage?» (Zehr, 1990)
Feedback of prevention in restorative justice
McCold, 2005, in Wright, 2010

- Offence
- Causes
- Damage
- Prevent
- Needs
- Create
- Restore
- Request
- Restorative responses
- Encounter

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European Forum for Restorative Justice: There is no single definition of restorative justice. Restorative justice is seen as a broad approach oriented towards repairing, as far as possible, the harm caused by crime or other transgressions. A core element of restorative justice is active participation by the victim, the offender and possibly other parties.

Wachtel (2005) said: «the science to restore and develop social capital, social discipline, emotive welfare and civil involvement through partecipated learning and decisional processes»
"Restorative justice programme" means any programme that uses restorative processes and seeks to achieve restorative outcomes.

"Restorative process" means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.

"Restorative outcome" means an agreement reached as a result of a restorative process. Restorative outcomes include responses and programmes such as reparation, restitution and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender.
* Well-being
* Ecology of responsibility
* Perceived self-efficacy and collective efficacy
* Social capital
Amartya Sen:

a multidimensional category constituted by:

* **CAPABILITIES:** the set of skills, potentialities, attitudes, abilities that constitute what we might call the "personal power" of the subjects

* **OPERATIONS** or "states of doing or being": the objective conditions that allow people to reach and maintaining results with respect to the quality of life (for example "being able to choose", seen as a function, immediately underlines the difference between choosing not to eat if someone can).
Responsability, in the ecological model by Gaetano De Leo, represents a constitutively interactive concept, culturally and socially constructed to connect all the parts involved. **Responsibility is a relational process**, an emerging quality in the systems of reciprocity and interaction that is built up in the relationships between subject, action, institutions and society. It is at the same time a framework that organizes the relationships between individuals, actions, norms and collectivity.
Looking at people as architects of their own affective and cognitive functioning, bearers of resources and capable of governing their own levels of well-being in interaction with their own living environment, means attaching importance to constitutive relational and contextual variables of wellness itself. Lent and Brown, in the field of positive psychology and in a unifying perspective, propose a socio-cognitive model that considers well-being a state of personal satisfaction to which people tend through a process that includes cognitive, behavioral, social, personal and emotive variables including those susceptible to intervention and change such as perceived self-efficacy, the effective pursuit of one's own objectives, the material and social support of the context.
A community that wants to become restorative and relational has to challenge the progressive and increasingly marked weakening of social ties.

The concept of binding value to underline the functions performed by the quality of social ties in the development, even economic, of a local community that would thus be better able to reduce opportunistic action in favor of the cooperative one.

Social capital by Putnam: a "good" that people and groups can dispose of, consisting of immaterial indicators such as the degree of trust, positive or negative assessments, social credit, support, influence and expectations of mutual commitment (concept often linked to social "reputation" and civic virtues).
Restorative practices

Reparative practices build social capital and have positive implications for all social contexts, from families to schools to workplaces. Reparative practices support a society based on participation and mutual trust, a society where citizens take more responsibility for their own life paths. Leaders and governments have a role in achieving social well-being, but support from our social networks is equally important: family, friends, neighbors and the community [...].

Fundamental hypothesis → people are happier, more cooperative and more productive, and are more likely to make positive changes when those in positions of authority do things with them rather than to them or to them.
Social discipline window (Wachtel & McCold, 2001)
Responsability, respect, relationship

Models of addressing harmful behaviour and its aftermath

- **High Accountability (Responsibility)**
  - Do to Out of anger
    - Be punitive
    - Stigmatising
    - Coercive
    - Retributive
  - Do with Out of respect
    - Be restorative
    - Inclusive
    - Participative
    - Transformative

- **Low Accountability (Responsibility)**
  - Move away from Out of fear
    - Be neglectful
    - Manage risk
    - Withdraw
    - Avoid
  - Do for Out of sympathy
    - Be permissive
    - Protective
    - Interventionist
    - Rescuing

- **Social Support (Relationship)**
  - Low
  - High

Adapted from McCold and Wachtel’s Social Discipline Window

Chapman, 2005
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Restorative justice engages those most affected by an injustice in a process that restores what has been lost, damaged and violated by the harm that has resulted from the injustice.
Wherever people live or work together or when they encounter each other in a diverse society there is a basic need to be treated equitably and with respect. When this does not occur they experience harm and they need justice.

Harm is not confined to crime and the need for justice is not restricted to the criminal justice system. It is just as keenly felt in families, schools, community and organisational life and in major social and political conflict.
*Restorative Youth Conferences in Northern Ireland*

Areas of research...
Community system
* Community Restorative Justice Ireland
* Alternatives NI

School system
Children’s Services
* Family Group Conferences
* Children’s Units

State system
Youth
* Low risk - Police restorative cautioning
* Medium risk - Public Prosecution Service referral for diversionary conference by Youth Conference Service
* High risk - Youth Court referral by Youth Conference Service
* Intensive Support and Supervision Programme

Adults
* Probation Service
* Prison Service

* Northern Ireland and Restorative Justice

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*Under 18 year old children and young people who admit to a criminal offence.

*Criminal Justice (Northern Ireland) Act 2002

The purpose:
* To devolve decision making to participants
* To meet the victim’s needs
* To reduce the risk of reoffending
* Consistent with children’s rights and proportionality

*Youth Conference Group*

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Mandatory
* Youth Conference Coordinator
* Young person
* Parent, guardian or appropriate adult
* Police officer
Young person’s lawyer is entitled to attend

Non-mandatory
* Victim
* Victim’s supporters
* Young person’s supporters
* Other appropriate professionals
* Appropriate representatives of the community
Attendance  50%
- Face to face meeting

Additional Participation 18% via;
- Video and telephone conference
- One way screen
- Recorded message (video, audio, written)
- Representative attends

No participation  32%

*Options for victim participation in conferences*
1. Apology
2. Reparation work
3. Financial compensation
4. Supervision by an adult
5. Participate in activities or programmes to address offending
6. Restrictions on actions
7. Treatment for mental condition or alcohol or drugs.
8. Electronic tagging
9. Custody

Action plan must be approved

*Action Plan options*
Outcomes for Youth Conferences

- Number of youth conferences now over 17,000
- Over 90,000 people have participated in a youth conference

- Victim participation; 50/70%
- Victim and young person satisfaction; 90%+

- 26% serious or very serious offences, 53% intermediate offences but offending persistent, 21% minor offences but persistent offending.

- 94% successful completion of plans
- Reoffending 43% (22% for serious harm)
- Reoffending for all other community disposals 61%; for custody 72%
- Reoffending for diversionary referrals 19%. Therefore early intervention highly effective

- England and Wales put about twice as many young people into custody as Northern Ireland
Restorative justice with young people who persistently offend or who commit serious offences can:

- Reduce offending
- Satisfy victims
- Reduce the use of detention
- Reduce costs

*Key findings*
*Why Restorative Justice?
* To support governments, organisations, practitioners, trainers and researchers to develop restorative justice throughout society

* Fit for societies which are modern, democratic, diverse and complex.

Art. 1 The purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.

Art. 2 gives some definitions:

Victims:
- a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence
- A family member

’Restorative justice’ means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.

Directive 2012/29/EU
When harm occurs most people want to move on and get back to their normal lives.

Restorative justice offers:
* A process through which a young person who has harmed another has the opportunity to be accountable, feel and express remorse, repair the harm and be reintegrated with respect
* A process through which the victim experiences justice, reparation and a commitment that it will not happen again.
* A process through which the community sees justice being done, feels safer and can offer support to the young person who has caused the harm.

Restorative justice can achieve this earlier, quicker and at less cost.

*Restoring the future*

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Skills that enhance relationships

* Taking personal responsibility
* Listening to others
* Empathy and understanding others
* Expressing remorse
* Making and keeping commitments
* Letting things go and forgiving
* Whenever and wherever adults engage with children

* Families - restorative parenting and family group conferences

* Communities - mediation and restorative circles

* Schools - mediation and restorative circles

* State - mediation, restorative conferences and circles of support and accountability

* Whenever and wherever adults engage with children

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A holistic policy framework

Level 4. Restorative culture and practices in detention and for reintegration

Level 3. Restorative conferences and circles of support and accountability to divert from detention

Level 2. Mediation to divert from entry into the criminal justice system

Level 1. Restorative parenting, family group conferences, mediation and restorative relationships in schools, restorative circles and mediation in the community.
ALTERNATIVE
Conflict in Intercultural Contexts
* Austria - the relationship between Muslim immigrants and longstanding residents in a social housing estate
* Hungary - the relationship between the Roma and other residents in a village
* Serbia and Northern Ireland - post-conflict society
State system

* Defines the desired outcome in a measurable way - reduce offending
* Controls access to service - crime committed, offender detected and admits guilt, individualised, slow process out of sight
* Controls location of practice
* Defines roles - victim, offender, community

Community

* More concerned with the ‘hidden harm’.
* Seeks inclusion and active participation in a rapid response often to inter-group harm
* Feels safer and more confident ‘on the margins’
* Resists labels

* Findings: Restorative Justice

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* The politics of identity sustain conflict and can stimulate violence.
* Security responses control and manage conflict but do not transform it.
* Difficult to resolve the cultural, relational and personal aspects of conflict.

*The limitations of politics*

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* Community is an active, reflexive social and communicative practice on how to live equitably with an increasingly diverse range of other identities. Through this practice community solidarity can be enlarged to include diversity while still being cohesive.

* Identity is multi-dimensional and dynamic depending upon context and the purpose of the activity

* Justice is experienced through active participation which creates greater security through offering safe and just processes for people to move towards and communicate with those they fear.

*The critical importance of activation through communicative action*
* How does the studies on neuroscience support the efficacy of application of a restorative justice model?

* In this TED Talk dr. Dan Reisel explain his researches on inmates:
  
  ⬅️ Click here to watch the video ⬅️

* Enjoy!!

*Homework*
People, even more than things, have to be restored, renewed, revived, reclaimed, and redeemed; never throw out anyone.

Thanks

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